

## § 19.201

## 27 CFR Ch. I (4–1–03 Edition)

(2) Be kept on file with the proprietor's current notice of registration; and

(3) After completion of the change, be incorporated in the next amendment of the notice of registration on Form 5110.41, unless the regional director (compliance) requires immediate amendment.

(c) *Emergency changes.* The proprietor may make emergency material changes without prior notification, but when such emergency changes are made, the proprietor shall promptly report such changes to the area supervisor.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, (26 U.S.C. 5172))

### OPERATIONS BY ALTERNATING PROPRIETORS

#### § 19.201 Procedure for alternating proprietors.

(a) *General.* A plant, or any part thereof which is suitable for qualification as a separate plant, may be operated alternately by proprietors who have filed and received approval of the necessary bonds and applications for registration, and have otherwise qualified under the provisions of this subpart. Where operations by alternating proprietors are limited to parts of the plant, the notice of registration shall describe the areas, rooms or buildings or combination thereof, which will be alternated, and shall be accompanied by special diagrams designating the parts of the plant which are to be alternated. A special diagram shall be submitted for each arrangement under which the premises will be operated. Once such qualifying documents have been approved, and initial operations have been conducted thereunder, the plant, or parts thereof, may be alternated by the proprietor filing notices on Form 5110.34 with the regional director (compliance). Any transfer of spirits, denatured spirits, and wines shall be indicated on Form 5110.34 filed by each proprietor.

(b) *Production.* Distilling materials and unfinished spirits in any bonded areas, rooms or buildings to be alternated shall be processed to completion by the outgoing proprietor unless

transferred to the incoming proprietor. All finished spirits shall be marked and removed by the outgoing proprietor in the name in which produced, before production gauge is made of any spirits by the incoming proprietor.

(c) *Storage.* Spirits and wines in any bonded areas, rooms, or buildings to be alternated shall be transferred in bond to the incoming proprietor. The outgoing proprietor shall execute a consent of surety on Form 1533 (5000.18) to continue in effect the operations or unit bond whenever operation of the areas, rooms, or buildings is to be resumed by him following suspension of operations by an alternate proprietor.

(d) *Processing.* Spirits, denatured spirits, wines and articles in any rooms, areas, or buildings to be alternated shall be processed to completion and removed from the affected areas, rooms, or buildings by the outgoing proprietor prior to the effective date and hours given in the notice unless transferred or retained in locked tanks as provided in this paragraph. Spirits, denatured spirits, and wines may be transferred to the incoming proprietor. Further, the outgoing proprietor shall execute a consent of surety on Form 1533 (5000.18) to continue in effect the operations or unit bond whenever operation of the affected areas, rooms, or buildings is to be resumed by him following suspension of operations by the alternate proprietor. Denatured spirits and articles may be retained in tanks locked by approved locks, the keys to which are in the custody of the outgoing proprietor. In this case, the outgoing proprietor shall execute a consent of surety on Form 1533 (5000.18) to continue liability on the operations or unit bond for the tax on such denatured spirits or articles retained in such tanks, notwithstanding the change in proprietorship.

(e) *Records.* Each proprietor shall maintain separate records and submit separate reports. Records kept by the outgoing proprietor for spirits, wines, and alcoholic flavoring materials may be used by the incoming proprietor. All transfers of distilling materials, unfinished spirits, spirits, denatured spirits,

and wines shall be reflected in the records of each proprietor.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271))

#### ALTERNATE OPERATIONS

##### **§ 19.202 Alternate use of premises and equipment for customs purposes.**

(a) *General.* The premises of a distilled spirits plant may, as provided in this section, be alternately curtailed and extended to permit the facilities of the distilled spirits plant to be used temporarily by customs officers, under applicable customs law and regulations, for the purpose of gauging or processing distilled spirits. The use of the excluded portion of the premises for customs purposes is subject to the approval of the district director of customs. When it is necessary to convey spirits in customs custody across the premises of a distilled spirits plant, the proprietor shall comply with the provisions of § 19.99. When a portion of the distilled spirits plant premises is first to be excluded as provided in this section, the proprietor shall file with the regional director (compliance) (1) an application for registration, Form 5110.41, to cover alternate curtailment and extension of premises, and (2) a special diagram, in duplicate, delineating the premises as they will exist, both during extension and curtailment, and clearly depicting all buildings, floors, rooms, areas, equipment and spirits lines (identified individually by letter or number) which are to be subject to alternation, in their relative operating sequence. Once such qualifying documents have been approved by the regional director (compliance), the designated premises and equipment may be alternately curtailed or extended pursuant to notice on Form 5110.34. Portions of the premises to be excluded by curtailment or included by extension shall not be used for purposes other than as set forth in the current notice. The proprietor shall remove all spirits from the premises or equipment affected by the notice prior to the effective date and hours of the notice. However, on release by customs, spirits being transferred to bonded premises under 26 U.S.C. 5232, may remain on the

premises to be reincluded in bonded premises.

(b) *Separation of premises.* The portion of the premises which is to be excluded from the distilled spirits plant premises as provided in this section shall be separated from the remaining portion of the distilled spirits plant premises in a manner which satisfies the regional director (compliance) that the revenue will not be jeopardized.

(c) *Exception.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, the bonded premises may be used temporarily without filing Form 5110.41 or Form 5110.34, for the sole purpose of gauging bulk distilled spirits to effect their transfer from customs custody to ATF bond.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1358, as amended (26 U.S.C. 5172, 5178))

##### **§ 19.203 Alternation of distilled spirits plant and bonded wine cellar premises.**

(a) *General.* A proprietor of a distilled spirits plant operating a contiguous bonded wine cellar desiring to alternate the use of each premises by extension and curtailment shall file necessary qualifying documents with the regional director (compliance).

(b) *Qualifying documents.* The proprietor shall file with the regional director (compliance):

(1) Form 5110.41 and Form 5120.25 to cover the proposed alternation of premises;

(2) A special diagram, in duplicate, delineating the premises as they will exist, both during extension and curtailment and clearly depicting all buildings, floors, rooms, areas, equipment and spirits lines (identified individually by letter or number) which are to be subject to alternation, in their relative operating sequence; and

(3) Evidence of existing bond, consent of surety, or a new bond to cover the proposed alternation of premises.

(c) *Proprietor's responsibility.* After approval of qualifying documents for the alternation of premises, and after initial operations have been conducted thereunder, the proprietor shall execute Form 5110.34 each time the premises are alternated. Prior to the effective hour of the date shown on the